

LAST EDITION.

MONDAY EVENING.

TOPEKA, KANSAS, OCTOBER 3, 1904.

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TWO CENTS.

DODGE THE TRIAL.

Efforts of the State Journal to Try School Fund Case

Frustrated by Burrow and Dayhoff in Court Today.

COURT IS WILLING.

Stipulation Suggested by Judge Hazen

At Once Agreed to by the Defendant, MacLennan.

The state school fund commissioners seem decided not to permit their libel suit against this paper to be tried before election. At least that was their expressed determination this morning through their attorneys, as to Mr. Burrow and Mr. Dayhoff, the majority of the commission.

In connection with the suits for \$45,000 brought against the editor and proprietor of the State Journal by the members of the state school fund commission, C. C. Coleman, attorney general, J. R. Burrow, secretary of state, and I. L. Dayhoff, superintendent of public instruction, there appeared in court before Judge Hazen this morning Mr. MacLennan, his attorney, J. G. Waters, of Waggener, Hackney and Waters, and Mr. Newell and J. S. West, representing the firm of Rossington, Smith & West, attorneys for the school fund commissioners.

Mr. MacLennan, through his attorney, asked that the three cases be consolidated as one case and tried before the same jury, but with three separate verdicts, and that the cases be tried Monday, October 10th, or any date thereafter, at the convenience of the court and the plaintiffs. The attorneys for the school fund commission asked that the case of C. C. Coleman be set for "early hearing."

Judge Hazen stated that he understood that the defendant desired that the case be tried before election; that as soon as the attorneys for the respective sides agreed in writing he would take up the matter, but that it would be impossible to try the three separate cases this month, but that he would consider the matter of trying the three as consolidated cases with three separate verdicts, or of one of the cases if the parties agreed.

A stipulation concerning a consolidated trial, as the three cases are firmly linked together, was immediately drawn up by Mr. MacLennan and his attorney along the above lines, but the attorneys for the school fund commission refused to sign the stipulation.

Details of Today's Incident.

J. G. Waters, one of the attorneys representing the defendant, appeared before the court and asked that the cases be set for an immediate trial. He stated that the three cases were filed in the form of general denials, and that the defendant desired that the trial be held in each of the three cases and a motion to docket and set for trial the C. C. Coleman case was filed by John W. Newell, one of the attorneys for the school fund commission, and a copy of the motion to docket and set for trial the C. C. Coleman case was filed by Mr. Newell. Immediately upon receiving the copy Captain Waters secured the attention of Judge Hazen and said:

"If the court please, Mr. Newell, just been handed, by the attorneys on the other side, a motion to advance the case of Coleman against MacLennan and I understand that the attorneys on the other side have just filed the same. There are three cases here against this defendant and the reply has just been filed this morning in each of those cases. None of them is properly triable at this time of court as the issues were made up after the present term began. Mr. Waggener is the principal attorney in the case and I would not like to take any decisive steps until he has been heard from, but I am satisfied that the defendant, Mr. MacLennan, Mr. Waggener, Mr. Hackney and myself are very desirous that all these cases and all the controversy in them be tried at this time."

"It appears that the attorneys have filed this motion in but one case, the Coleman case, and they are demanding trial on it and they are not taking steps to advance the others, as I have been informed by Mr. Newell, evidently thinking that Mr. Coleman is the gentleman 'further the fire' in this controversy. If the gentlemen will make the request in the other two cases and consent that all the cases be consolidated and tried before the same jury, I have no doubt that the same can be accomplished."

At this stage in the proceedings Mr. MacLennan appeared in the court room. He had telephoned to Mr. Waggener at Archison, immediately upon hearing from Captain Waters that the replies were filed. Mr. Waggener at once directed that an effort be made to have the three cases consolidated and before one jury; that the jury return three separate verdicts and that the cases be tried as soon as possible. Mr. MacLennan communicated this to Captain Waters.

Immediate Trial Asked.

Captain Waters addressed the court and said: "The petitions and answers in these cases are identical and the cases are the same. Mr. MacLennan and his attorneys are anxious for an immediate trial."

"Make out a stipulation and have the attorneys for all parties agree to an early trial," said Judge Hazen. "Put your agreements and understandings in writing. We will understand that it is a stipulation in a situation for the court to decide on this I will act."

"We will request the trial of all the cases at once, with three separate verdicts by the same jury. We will be ready for trial one week from today," said Captain Waters.

"If you will in writing for the trial of one of those cases, or of all three consolidated into one case, with three separate verdicts I will pass on the stipulation and understandings desired to try this matter before election, but I wish to say emphatically that I can try but one case, or all three cases consolidated as one with three separate verdicts," said Judge Hazen.

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lar date let the court decide the date," said Judge Hazen. "The object as I understand it is to try this case before election. The court can not try the case next Monday, October 10, as this week is taken up with jury trials already set."

"I will prepare a stipulation at once," said Captain Waters.

Effort for Quick Trial Frustrated.

"Coleman," "Burrow," "Dayhoff," "MacLennan," "The court," "It is agreed that these three cases may be tried together before one jury; that three separate verdicts shall be returned by the jury, and may be tried at such time as the court and the parties may agree on to convenience all after this week. Monday, October 10, 1904, would be agreeable to defendant."

Captain Waters read the stipulation to the court and offered it to Newell for signature. Newell refused to sign the stipulation.

"Is Mr. Waters acting with authority in this case?" Newell asked of Judge Hazen.

"As the defendant is present in the court room I presume he is," replied Judge Hazen.

"The court will try cases only if the parties consent," said Judge Hazen. "I made myself plain; put the stipulation in writing and let both parties sign and the court will take the matter up as soon as the stipulation is filed. I will not say anything till then and the matter will not be before the court until the stipulation is filed. If the stipulation is filed today I will decide the matter tomorrow morning."

At this point J. S. West, of the firm of Rossington, Smith & West, attorney for the plaintiffs, appeared in the court room. Captain Waters offered him the stipulation for his signature. Judge West refused to sign the stipulation.

"I won't sign that," said West. "We want to try the Coleman case first."

Judge West abruptly left the court room. Captain Waters followed him into the hall and again asked him to sign the stipulation.

"No, we want to try the Coleman case first," said Judge West.

"You think you would prefer to try the man furthest from the fire," said Captain Waters.

The motion to docket and set for trial the Coleman case was filed in the Coleman case and during the session of the court, a law clerk from the office of Rossington, Smith & West, attorneys for the plaintiffs, appeared in the court room and asked that the three cases be consolidated as one case and tried before the same jury, but with three separate verdicts, and that the cases be tried Monday, October 10th, or any date thereafter, at the convenience of the court and the plaintiffs. The attorneys for the school fund commission asked that the case of C. C. Coleman be set for "early hearing."

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BOODLE TALE

Charles F. Kelly of Boodle Combine Makes a Confession.

How St. Louis Was Systematically Robbed for Years.

OFFERED IMMUNITY

If He Would Withhold the Secrets of the Gang.

Grossest Corruption Has Existed for 25 Years.

Hardly a Bill Passed That Was Not Paid For.

THREAT TO KILL FOLK

Libels Deliberately Planned in Order to Silence Him.

St. Louis, Oct. 3.—In a written confession today Charles F. Kelly, speaker of the house of delegates during a period in the life of the boodle combine, relates the story of that combine. He declares that a prominent local politician promised himself and others implicated that the next circuit attorney would be all right and promised if they would remain firm he would secure for them either continuances until the new circuit attorney took office or pardons after a year.

Kelly is under conviction for perjury in connection with "boodle" cases and his trial on the charge of bribing in connection with the Suburban franchise deal will be called Monday. He is now out on bond.

Kelly declares that the new circuit attorney for which office nomination are to be made by the Democrats today would be "his man."

Kelly declares he refused the offer and that he makes this confession to science, to obey the requests of his wife and to do what he can to make atonement to the public and prevent the furthering of the path which he declares has led him to ruin. Kelly declared that he was paid \$15,000 of \$50,000 promised to keep the St. Louis city of St. Louis from the Missouri Pacific to Scott City, from the point of it again to over the Santa Fe tracks to the east. These trains make the same time as the regular schedule calls for.

The St. Louis city has been annulled for a few days until the washouts are repaired and traffic has resumed its normal conditions. Several passenger equipment is tied up on account of the floods that the management has been unable to handle but which will be for a few days this week on trains Nos. 5 and 6.

The Santa Fe has issued instructions to not accept perishable freight for points west of Dodge City.

A pile driver is working at each end of the bridge at Byron over the Arkansas river where 54 holes were washed out, but it will require three or four days to make the repairs at that point. With the completion of the repairs at that point the trains will be open through to Denver and Trinidad.

General Manager H. U. Mudge has reached Trinidad and the working force are busy just south of the city. Railway communication is completely shut off between Trinidad and Albuquerque. It is believed that the line has been opened as far as El Paso, but it will require possibly three days to complete repairs as far as Albuquerque.

The bridge over the Canadian river on the Pecos Valley line of the Santa Fe is also out, and communication is temporarily shut off in that direction. The bridge was washed away by the Santa Fe, left Topeka last night for the scene of the washouts in New Mexico.

Coils of telegraph wire were forwarded today to repair damage to the telegraph lines.

Canadian River Bridges Out.

The Rock Island railway bridge near Tucumcari, N. M., is out on account of floods in the Canadian river. This bridge is the largest railway bridge in the Southwest and is one of the largest in the world. It is about 1,200 feet long and 15 feet high. The piers are set in the river bed and steel trestles support the rails above. The torrent of flood waters and debris coming down the river has taken out several of the trestles.

A pile bridge of the Rock Island over the Cimarron river, near Meade, was also out and some were started to El Paso and California on the Rock Island are being detoured through Fort Worth, Texas.

The water in the Canadian river is taking all the bridges in its path and it is possible that communication with the Fort Worth outlet will be cut off.

W. L. Darling, chief engineer, and H. White, engineer of maintenance and way of the Rock Island of Chicago, passed through Topeka yesterday afternoon en route to the scene of the bridge out in the El Paso division. A train load of workmen from the St. Louis line of the Rock Island east of Kansas City was also moved westward last night and a train load of material was also sent out.

It is likely that another lot of material will be shipped today from the Topeka division house. The westbound Rock Island trains are running on time. Eastbound from Fort Worth are reported eight hours late today and the El Paso trains are indefinitely late.

Twelve Persons Drowned.

Las Vegas, N. M., Oct. 3.—Half the town of Watrous was destroyed by the flood and at least twelve persons were drowned. Among them were the three children of J. E. Stevens, Felix Villalaz, his wife, two sisters and several children, and O. F. Foster. The bodies of the three children and have been brought here. They are in a critical condition. Many persons were rescued from trees and house tops. The great damage was around the junction of Mora and Sapello creeks. The rock crusher, the great iron bridge and much track at Watrous were washed away. The Gallinas river formed a new channel here. In the Gallinas canyon

LONG IN TOPEKA.

Senator Stops Over on His Way to Oswego.

Senator Chester I. Long came in from El Dorado Sunday, having made a speech there Saturday along with E. W. Hoch, Congressman Miller and others. He ran up to Topeka to spend Sunday and left this morning for Oswego. Senator Long is giving all of his time now to the campaign. He was accompanied here by his secretary, Ralph Faxon, and by A. A. Richards of Wellington.

Congressman Calderhead also came to Topeka Sunday and was visiting around Topeka today, attending the opening of the October session of the supreme court. Mr. Calderhead is making a canvass of his district, the Fifth. He spoke at Abilene Saturday.

DAMAGE \$500,000.

Disastrous Effect of Floods on the Santa Fe Railroad.

The washouts and damages on account of floods in Colorado and New Mexico will cost the Santa Fe railroad half a million dollars.

The flood of water which reached the Arkansas river from the Purgatoire and Las Animas rivers has washed out 34 bents of a pile bridge of the Santa Fe railroad on the main line at Byron, Colorado, and through traffic is being detoured.

Passenger trains Nos. 1 and 1 westbound on the Santa Fe are being run on the main line to Newton and south via Purcell and Fort Worth, Texas, at which point they are detoured via the Texas and Pacific railroad to El Paso and Deming, at which point they again reach Santa Fe lines and are sent to California from Deming via Rincon and 2 and 8 are handled eastbound via the same route.

The Santa Fe officials announce that the distance is not enough greater to make the trains reach destination more than two or three hours later than regular schedule time.

Passenger trains Nos. 5 and 6 which handle the Colorado business and the California business via the northern route from Pueblo are unable to get through on the main line.

No. 5 westbound from Chicago, Kansas City and St. Louis is run on the line as far as Great Bend where it is sent out over the branch to Scott City and run from Scott City over the Missouri Pacific to Pueblo for points west. The passengers are sent by stub trains to their destinations in each direction.

Pueblo trains are run east as far as La Junta and south as far as Trinidad, and north to Denver. The California business makes the regular schedule from Pueblo for points west. Train No. 6 eastbound from Denver makes the run to Pueblo and over the Missouri Pacific to Scott City, from there it again runs over the Santa Fe tracks to the east. These trains make the same time as the regular schedule calls for.

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20,000 JAPANESE FALL.

Four Days of Desperate Fighting at Port Arthur.

Positions Occupied by the Besiegers Are Recaptured.

WORK SO HAZARDOUS

That Gen. Stoessel Would Not Order It Undertaken.

Called for Volunteers Instead, Who Responded Promptly.

Several Mines Were Exploded Causing Great Loss.

Chefoo, Oct. 3.—2 P. M.—An official report from General Stoessel dated September 30, reached Chefoo today, confirming a previous report of the repulse of the Japanese attack on Port Arthur, which began September 19 and ended September 22. The fighting was of an extremely severe character. The Japanese having retired Gen. Stoessel issued the following proclamation: "Glory! Thanks to God! Glory to our heroic garrison! Glory to Ilman, Ryuff and Pogorsky!—Heroes all. Thanks to our valiant volunteers, who routed the enemy from the trenches, destroying them. God has permitted us to repulse the enemy. Praise to God."

The volunteers referred to by Gen. Stoessel in the proclamation which he issued after the desperate fighting that took place between September 19 and 22, were made up of regulars called out to take a high hill which had been captured by the Japanese. From the attack began on the 13th along the whole line and lasted four days, various positions changing hands many